

4-806. Writ of garnishment.

[For use with Rule 1-065.2, 2-802, and 3-802]

STATE OF NEW MEXICO

COUNTY OF _____

[IN THE [MAGISTRATE] [METROPOLITAN] COURT]

[_____ JUDICIAL DISTRICT]

_____, Plaintiff

v.

No. _____

_____, Defendant

Balance Due Upon Application for Writ: \$_____

Includes Interest at _____%

Through _____, _____ (*date*)

WRIT OF GARNISHMENT

THE STATE OF NEW MEXICO to _____, garnishee.

_____ is the judgment debtor in this case and owes the amount set out above to the judgment creditor _____ whose address is _____.

The above judgment creditor believes that you hold or control money or property which belongs to the judgment debtor.

YOU ARE ORDERED to file a written answer with the _____ court located at _____ within twenty (20) days from the day you receive this writ. Your answer must be under oath and on the attached form (*answer by garnishee*).

YOU ARE FURTHER ORDERED, as follows:

1. If you owe the judgment debtor any money (other than wages), or become indebted to the judgment debtor before filing your answer, you must keep a sufficient amount of that money to satisfy the judgment and all costs and attorney fees due as a result of service of this writ and not pay it to the judgment debtor, unless this court enters an order releasing this writ of garnishment.
2. If the judgment debtor is an employee of yours, unless the debt is for child or spousal support, you shall pay your employee, the judgment debtor, only
 - A. 75% of the debtor's disposable earnings (salary less social security, federal and state withholdings, and any other deduction required by law) for any pay period;

OR

- B. an amount each week equal to forty times the federal minimum hourly wage rate;
- whichever is greater.

If the debt is for child support or spousal support payments, you shall pay the judgment debtor 50% of the debtor's disposable earnings (*salary less social security, federal and state withholding*).

If employee's wages or salary are subject to more than one garnishment or wage withholding proceeding, the writs shall be satisfied in the order they have been served on you.¹

In no event may you withhold from your employee's net disposable earnings more than fifty

percent (50%) of the employee's net disposable earnings if one of the writs is for child or spousal support or more than twenty-five percent (25%) if none of the garnishments is for child or spousal support.²

Any wages you owe the employee in excess of that amount or that you may come to owe the employee in excess of that amount must be kept by you until further order of this court. (*A table giving equivalent exemptions for pay periods of other than one (1) week may be obtained from the Financial Institutions Division of the Regulation and Licensing Department, 725 St. Michaels Drive, Santa Fe, New Mexico 87503.*)

3. If you have any property which belongs to the judgment debtor including any rights, credits, bonds, bills, notes, drafts and other rights to property or money which belongs to the judgment debtor or if you acquire any such property, money or rights to property or money before filing your answer, you must keep a sufficient amount of that property to satisfy the existing judgment and costs and not turn it over to the judgment debtor unless the court enters an order releasing the property or money.
4. If you hold property or money belonging to the judgment debtor, within four (4) business days after service of this writ you are to mail or deliver a copy of this writ and the application for writ provided by the judgment creditor. If you hold property or money of the judgment debtor's other than wages and the debtor is a natural person, you shall also mail or deliver to the judgment debtor, the attached notice of right to claim exemptions and a copy of the attached claim of exemption forms, to each person identified as a judgment debtor.

You shall also send or deliver a copy of your answer to this writ to the judgment debtor and to the judgment creditor.

5. The court will be asked to enter an order awarding \$_____ for the judgment creditor's costs relative to the service of the writ of garnishment and \$_____ for judgment creditor's attorney's fees in connection with the writ of garnishment in addition to \$_____, the "Balance Due Application for Writ".

THIS IS A COURT ORDER. If you fail to file the answer, or if you disobey any of these orders, a judgment may be entered against you for the full amount of the unpaid judgment in this case.

(Seal)

Judge or clerk

RETURN

STATE OF NEW MEXICO)
) ss.
COUNTY OF _____)

RETURN FOR COMPLETION BY SHERIFF OR DEPUTY:

I certify that I served this writ in said county on the _____ day of _____, _____, by delivering a copy of the writ, a copy of the application for writ, a copy of a form for answer by garnishee, a copy of a notice of right to claim exemptions for each judgment debtor and a copy of the claim of exemption form for each judgment debtor to _____ garnishee.

(For garnishment of wages, serve only copies of the application for writ of garnishment, writ of garnishment and answer form. For garnishment other than wages, if the judgment debtor is a natural person, serve the application for writ of garnishment, the writ of garnishment, a copy of the notice of right to claim exemptions, a copy of the claim of exemption form and a copy of the answer by garnishee. Judgment debtors who are not natural persons are not entitled to garnishment exemptions.)

By _____
Name

Title

Fees:

SHERIFF OF _____
COUNTY, State of New Mexico

By _____
Deputy

RETURN FOR COMPLETION BY OTHER PERSON MAKING SERVICE:

I, being duly sworn, on oath, say that I am over the age of eighteen (18) years and not a party to this lawsuit, and that I served this writ in said county on the _____ day of _____, _____, by delivering a copy of the writ, a copy of the application for writ, a copy of a form for answer by garnishee, a copy of a notice of right to claim exemptions for each judgment debtor and

a copy of the claim of exemption form for each judgment debtor to _____
garnishee.

By _____
Name

Title

Signature of private person
making service

Subscribed and sworn to before me this
_____ day of _____, _____

Judge, notary or other officer
authorized to administer oaths

Official title

USE NOTES

1. Section 35-12-9 NMSA 1978 provides that if an employee's wages are subject to more than one garnishment proceeding, the writs shall be satisfied in the order in which they are served on the garnishee.
2. Section 35-12-7(C) NMSA 1978 provides that the maximum amount which may be taken from a person's disposable earnings is fifty percent (50%) of the employee's disposable earnings.

[As amended, effective June 15, 1986; January 1, 1987; July 1, 1992; January 1, 1996; December 3, 2001.]